

Part 3

County Executive

17-53-301 General powers, duties, and functions of county executive.

- (1) The elected county executive is the chief executive officer of the county.
- (2) Each county executive shall exercise all executive powers, have all executive duties, and perform all executive functions of the county, including those enumerated in this part, except as expressly provided otherwise in statute and except as contrary to the powers, duties, and functions of other county officers expressly provided for in:
 - (a) Chapter 16, County Officers;
 - (b) Chapter 17, County Assessor;
 - (c) Chapter 18a, Powers and Duties of County and District Attorney;
 - (d) Chapter 19a, County Auditor;
 - (e) Chapter 20, County Clerk;
 - (f) Chapter 21, Recorder;
 - (g) Chapter 22, Sheriff;
 - (h) Chapter 23, County Surveyor; and
 - (i) Chapter 24, County Treasurer.
- (3) A county executive may take any action required by law and necessary to the full discharge of the executive's duties, even though the action is not expressly authorized in statute.

Amended by Chapter 258, 2015 General Session

17-53-302 County executive duties.

Each county executive shall:

- (1) exercise supervisory control over all functions of the executive branch of county government;
- (2) direct and organize the management of the county in a manner consistent with state law, county ordinance, and the county's optional plan of county government;
- (3) carry out programs and policies established by the county legislative body;
- (4) faithfully ensure compliance with all applicable laws and county ordinances;
- (5) exercise supervisory and coordinating control over all departments of county government;
- (6) except as otherwise vested in the county legislative body by state law or by the optional plan of county government, and subject to Section 17-53-317, appoint, suspend, and remove the directors of all county departments and all appointive officers of boards and commissions;
- (7) except as otherwise delegated by statute to another county officer, exercise administrative and auditing control over all funds and assets, tangible and intangible, of the county;
- (8) except as otherwise delegated by statute to another county officer, supervise and direct centralized budgeting, accounting, personnel management, purchasing, and other service functions of the county;
- (9) conduct planning studies and make recommendations to the county legislative body relating to financial, administrative, procedural, and operational plans, programs, and improvements in county government;
- (10) maintain a continuing review of expenditures and of the effectiveness of departmental budgetary controls;
- (11) develop systems and procedures, not inconsistent with statute, for planning, programming, budgeting, and accounting for all activities of the county;

- (12) if the county executive is an elected county executive, exercise a power of veto over ordinances enacted by the county legislative body, including an item veto upon budget appropriations, in the manner provided by the optional plan of county government;
- (13) review, negotiate, approve, and execute contracts for the county, unless otherwise provided by statute;
- (14) perform all other functions and duties required of the executive by state law, county ordinance, and the optional plan of county government; and
- (15) sign on behalf of the county all deeds that convey county property.

Amended by Chapter 209, 2011 General Session

17-53-303 Examination and audit of accounts.

- (1) The county executive may examine and audit the accounts of all officers having the care, management, collection, or disbursement of money belonging to the county or appropriated by law or otherwise for its use and benefit.
- (2) Nothing in this section may be construed to affect a county auditor's authority under Chapter 19a, County Auditor.

Amended by Chapter 17, 2012 General Session

17-53-304 Commanding services of sheriff.

The county executive may direct the county sheriff to serve notices, subpoenas, citations, or other process issued by the executive, and to attend in person or by deputy all meetings conducted by the executive to preserve order.

Enacted by Chapter 133, 2000 General Session

17-53-305 Warrants -- Authority to draw on treasurer.

The county executive may settle and allow all accounts legally chargeable against the county, after their examination by the county auditor, and order warrants to be drawn on the county treasurer for those accounts.

Renumbered and Amended by Chapter 133, 2000 General Session

17-53-306 Warrants -- Required information -- Payment -- Registration.

- (1) Each warrant drawn by order of the county executive on the county treasurer for current expenses during each year shall specify the liability for which it is drawn, when it accrued, and the funds from which it is to be paid.
- (2) Each warrant shall be paid in the order of presentation to the treasurer.
- (3) If the money in the treasury is insufficient to pay a warrant, the treasurer shall register the warrant and pay it in the order of registration.
- (4) Accounts for county charges of every description shall be presented to the auditor and county executive to be audited as prescribed in statute.

Enacted by Chapter 133, 2000 General Session

17-53-307 County purchasing agent -- Appointment -- Compensation -- Oath -- Supervision -- Duties.

- (1) The county executive, with the advice and consent of the county legislative body, in each county having a taxable value in excess of \$500,000,000 may appoint a county purchasing agent.
- (2) The agent shall qualify by taking, subscribing, and filing the constitutional oath and giving bond to the county in a sum fixed by the county legislative body.
- (3)
 - (a) The county purchasing agent shall, under the direction and supervision of the county executive and except as provided in Subsection (3)(b):
 - (i) negotiate for the purchase of or contract for all supplies and materials required by the county;
 - (ii) submit all contracts and purchases negotiated by the purchasing agent under Subsection (3)(a)(i) to the county executive for approval and ratification; and
 - (iii) keep an accurate and complete record of all purchases and a detailed disposition of them and, when required by the county legislative body, make a complete and detailed report to it of business transacted.
 - (b) Subject to Subsection (3)(c), the county executive may structure the county purchasing agent's office so that:
 - (i) the county purchasing agent's office is physically located within the county auditor's office; and
 - (ii) the county purchasing agent receives direction and supervision from the county auditor.
 - (c) The county executive:
 - (i) may not structure the county purchasing agent's office as described in Subsection (3)(b) unless:
 - (A) the county executive receives the advice and consent of the county council; and
 - (B) the county executive and county auditor agree, in writing, to the proposed structure, including the level of direction and supervision of the county purchasing agent retained by the county executive; and
 - (ii) shall maintain the level of direction and supervision over the county purchasing agent as agreed upon with the county auditor.
- (4) The county executive may exclude from the purchasing agent's responsibility a county clerk's duties concerning elections or a sheriff's duties under Section 17-22-8.

Amended by Chapter 140, 2011 General Session

17-53-309 Approval of cost-increase changes in plans and specifications -- Delegation.

- (1) If the county executive adopts plans and specifications for the alteration, construction, or repair of any public building or other public structure, the plans and specifications may not be altered or changed in any manner that would increase the cost of altering, constructing, or repairing the building or structure, unless the county executive approves the alteration or change in the plans and specifications.
- (2) The county executive may adopt policies and procedures to delegate authority to approve alterations or changes in plans and specifications to a county employee, including the county engineer, architect, surveyor, or director of the department or division responsible for the work.

Renumbered and Amended by Chapter 133, 2000 General Session

17-53-310 Changes or alterations in contract -- Liability of county.

- (1) If the county executive enters into a contract for the construction, alteration, or repair of any public building or other public structure, the contract may be altered or changed only if the alteration or change is within the general scope of the contract.
- (2) If a change or alteration in the contract is made:
 - (a) the particular change or alteration shall be specified in writing; and
 - (b) the increase or decrease in cost due to the change or alteration shall be established by the county executive according to either the provisions of the contract or established principles of the construction industry.
- (3)
 - (a) The county executive may adopt policies and procedures to delegate authority for approval of changes or alterations in the contract to a county employee, including the county engineer, architect, surveyor, or director of the department or division responsible for the work.
 - (b) Unless the requirements of this section are met, the county is not liable for any extra work done on the buildings or public structures.

Renumbered and Amended by Chapter 133, 2000 General Session

17-53-311 Contracting for management, maintenance, operation, or construction of jails.

- (1)
 - (a) With the approval of the sheriff, a county executive may contract with private contractors for management, maintenance, operation, and construction of county jails.
 - (b) A county executive may include a provision in the contract that allows use of a building authority created under the provisions of Title 17D, Chapter 2, Local Building Authority Act, to construct or acquire a jail facility.
 - (c) A county executive may include a provision in the contract that requires that any jail facility meet any federal, state, or local standards for the construction of jails.
- (2) If a county executive contracts only for the management, maintenance, or operation of a jail, the county executive shall include provisions in the contract that:
 - (a) require the private contractor to post a performance bond in the amount set by the county legislative body;
 - (b) establish training standards that shall be met by jail personnel;
 - (c) require the private contractor to provide and fund training for jail personnel so that the personnel meet the standards established in the contract and any other federal, state, or local standards for the operation of jails and the treatment of jail prisoners;
 - (d) require the private contractor to indemnify the county for errors, omissions, defalcations, and other activities committed by the private contractor that result in liability to the county;
 - (e) require the private contractor to show evidence of liability insurance protecting the county and its officers, employees, and agents from liability arising from the construction, operation, or maintenance of the jail, in an amount not less than those specified in Title 63G, Chapter 7, Governmental Immunity Act of Utah;
 - (f) require the private contractor to:
 - (i) receive all prisoners committed to the jail by competent authority; and
 - (ii) provide them with necessary food, clothing, and bedding in the manner prescribed by the governing body; and
 - (g) prohibit the use of inmates by the private contractor for private business purposes of any kind.
- (3) A contractual provision requiring the private contractor to maintain liability insurance in an amount not less than the liability limits established by Title 63G, Chapter 7, Governmental

Immunity Act of Utah, may not be construed as waiving the limitation on damages recoverable from a governmental entity or its employees established by that chapter.

Amended by Chapter 297, 2011 General Session

17-53-312 County resource development committee -- Membership -- Term -- Compensation and expenses -- Duties.

- (1)
 - (a) A county executive may, with the advice and consent of the county legislative body, appoint a county resource development committee of three or more members, at least one of which shall be a member of the county legislative body.
 - (b) Each member of a county resource development committee shall be a resident of the county.
- (2)
 - (a) The term of each member of a county resource development committee shall be two years and until a successor has been appointed.
 - (b) The legislative body of each county with a county resource development committee shall provide by ordinance for the filling of a vacancy in the membership of the committee and for the removal of a member for nonperformance of duty or misconduct.
- (3)
 - (a) Each member shall serve without compensation.
 - (b) The county legislative body may reimburse a member for actual expenses incurred in performing the member's duties and responsibilities on the committee, upon presentation of proper receipts and vouchers.
- (4) The committee may elect such officers from its members as it considers appropriate and may, with the consent and approval of the county legislative body, employ an executive director for the committee.
- (5) The committee shall:
 - (a) assist in promoting the development of the county's mineral, water, manpower, industrial, historical, cultural, and other resources; and
 - (b) make such recommendations to the county for resource development as the committee considers advisable.
- (6) The county executive may cooperate and enter into contracts with municipalities, local communities, other counties, and the state for the purpose of promoting the development of the economic, historical, and cultural resources of the county.

Enacted by Chapter 133, 2000 General Session

17-53-313 Hiring of professional architect, engineer, or surveyor.

Notwithstanding the adoption of some or all of the provisions of Title 63G, Chapter 6a, Utah Procurement Code, under Section 17-53-225, each county executive that engages the services of a professional architect, engineer, or surveyor and considers more than one such professional for the engagement:

- (1) shall consider, as a minimum, in the selection process:
 - (a) the qualifications, experience, and background of each firm submitting a proposal;
 - (b) the specific individuals assigned to the project and the time commitments of each to the project; and
 - (c) the project schedule and the approach to the project that the firm will take; and

- (2) may engage the services of a professional architect, engineer, or surveyor based on the criteria under Subsection (1) rather than solely on lowest cost.

Amended by Chapter 347, 2012 General Session

17-53-314 Restrictions on county procurement of architect-engineer services.

- (1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.
- (2) When a county elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:
 - (a) a higher education entity, or any part of one, may not submit a proposal in response to the county's competitive procurement process; and
 - (b) the county may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

Enacted by Chapter 21, 2000 General Session

17-53-315 Actions -- Control and direction.

- (1)
 - (a) A county executive may control and direct the prosecution, defense, and settlement of all lawsuits and other actions:
 - (i) to which the county is a party;
 - (ii) as to which the county may be required to pay the judgment or the costs of prosecution or defense; or
 - (iii) as further provided by county ordinance.
 - (b) If necessary, the county executive may, upon the recommendation of the county or district attorney or if required by court order, employ counsel to represent the county in the lawsuit or other action or assist the county attorney or, in a county that does not have a county attorney, the district attorney in conducting those lawsuits or any other actions where the county attorney or district attorney, as the case may be, is authorized by law to act.
- (2) If a lawsuit or other action is brought or prosecuted by another elected official or a board or other entity of the county under a statutory duty, that other elected official, board, or other entity may control and direct the lawsuit or other action, consistent with applicable law.

Amended by Chapter 241, 2001 General Session

17-53-316 Executive orders.

- (1) The county executive may issue an executive order to:
 - (a) establish an executive policy;
 - (b) implement an executive practice; or
 - (c) execute a legislative policy or ordinance, as provided by statute.
- (2) An executive order may not:
 - (a) be inconsistent with county ordinances addressing or with policies established by the county legislative body addressing the same subject as the executive order; or
 - (b) expand or narrow legislative action taken or legislative policy issued by the county legislative body.

- (3) Each executive order exercising supervisory power over other elected county officers shall be consistent with the authority given the county executive under Section 17-53-106.

Enacted by Chapter 241, 2001 General Session

17-53-317 Executive appointment with advice and consent of county legislative body.

- (1) The appointment of a person to fill a position on a board, committee, or similar body whose membership is appointed by the county shall be by the county executive, with the advice and consent of the county legislative body.
- (2)
- (a) As used in this Subsection (2), "interim vacancy period" means:
- (i) for a county commission form or expanded county commission form of government, the period of time that:
- (A) begins on the day on which a general election described in Section 17-16-6 is held to elect a commission member; and
- (B) ends on the day on which the commission member-elect begins the council member's term; or
- (ii) for a county executive-council form of government, the period of time that:
- (A) begins on the day on which a general election described in Section 17-16-6 is held to elect a county executive; and
- (B) ends on the day on which the county executive-elect begins the county executive's term.
- (b)
- (i) A county commission in a county commission form of government, or a county commission in an expanded county commission form of government, may not appoint during an interim period vacancy a manager, a chief executive officer, a chief administrative officer, or a similar position to perform executive and administrative duties or functions.
- (ii) Notwithstanding Subsection (2)(b)(i):
- (A) a county commission in a county commission form of government, or a county commission in an expanded county commission form of government, may appoint an interim manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and
- (B) the interim appointee's term shall expire once a new manager, a chief executive officer, a chief administrative officer, or a similar position is appointed by the new administration after the interim vacancy period has ended.
- (c) Subsection (2)(b) does not apply if all the county commission members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the county commission for the following term.
- (d)
- (i) A county executive in a county executive-council form of government may not appoint during an interim vacancy period a manager, a chief executive officer, a chief administrative officer, or a similar position to perform executive and administrative duties or functions.
- (ii) Notwithstanding Subsection (2)(d)(i):
- (A) a county executive in a county executive-council form of government may appoint an interim manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and
- (B) the interim appointee's term shall expire once a new manager, a chief executive officer, a chief administrative officer, or a similar position is appointed by the new county executive after the interim vacancy period has ended.

- (e) Subsection (2)(d) does not apply if the county executive who held office on the day of the county general election is re-elected to the office of county executive for the following term.
- (3) A county commission in a county commission form of government, a county commission in an expanded county commission form of government, or a county executive in a county executive-council form of government that appoints a manager, a chief executive officer, a chief administrative officer, or a similar position in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager, chief executive officer, chief administrative officer, or similar position.

Amended by Chapter 209, 2011 General Session

17-53-318 Governing body as cooperating agency in federal land planning and regulation.

- (1) As used in this section:
 - (a) "Cooperating agency" means:
 - (i) a cooperating agency as defined in 43 CFR 1601.0-5; or
 - (ii) a cooperating agency as defined in 40 CFR 1508.5.
 - (b) "General plan" means the general plan described in Title 17, Chapter 27a, Part 4, General Plan.
 - (c) "Governing body" means, respectively:
 - (i) a county commission;
 - (ii) a county council and county executive; or
 - (iii) a county council and county manager.
- (2) A governing body or a person designated by the governing body:
 - (a) may represent the county as a cooperating agency; and
 - (b) is considered to have special expertise:
 - (i) in a matter related to the:
 - (A) National Environmental Policy Act of 1969, 42 U.S.C. Sec. 4321 et seq.;
 - (B) Federal Land Policy Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;
 - (C) Wilderness Act of 1964, 16 U.S.C. Sec. 1131 et seq.;
 - (D) Multiple-Use Sustained Yield Act of 1960, 16 U.S.C. Sec. 528 et seq.;
 - (E) National Forest Management Act of 1976, 16 U.S.C. Sec. 1600 et seq.; or
 - (F) an energy policy and conservation act amended by the Energy Policy Act of 2005, 42 U.S.C. Sec. 16511 et seq.;
 - (ii) in a matter related to federal land development and planning, the implementation of a federal resource management plan, and other related federal land management actions;
 - (iii) regarding whether a federal land development and plan, resource management plan, or other related federal land management action is consistent with an adopted county general plan; and
 - (iv) on a subject matter for which it has statutory responsibility, including a subject matter related to the health, safety, welfare, custom, culture, or socioeconomic viability of a county.
- (3) A county through its governing body or a person designated by the governing body may participate in efforts to coordinate and make consistent the federal agency resource management plan or other related management action with the general plan as provided in:
 - (a) the Federal Land Policy Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;
 - (b) 16 U.S.C. Sec. 1604; or
 - (c) any other federal law or rule that provides for coordination and consistency with local government plans and policies.

Enacted by Chapter 97, 2013 General Session